

Appl. No. 10/645,226  
Amendment dated February 10, 2005  
Reply to Office Action of February 4, 2005

## REMARKS/ARGUMENTS

This response assumes that the Examiner's citations to U.S. Patent No. 4,487,342 were instead intended to be to 4,487,324.

Claims 1-7 stand rejected under 35 USC 103(a) as being unpatentable over U.S. Patent No. 4,531,650 in view of U.S. Patent Nos. 4,487,324 and 5,101,870, the Examiner reasoning that '650 teaches a container with a circumferential lip 48, a cap fixed to engage the container opened end in a fluid-type fashion, the cap comprising a circumferential skirt 16, hinge 22, frangible strip 24 with pull tab 30 and inner circumferential flange/flip top 14. The Examiner contends that the cap is fixed to the container by the engagement between band 20 and container shoulder 50. The Examiner acknowledges that '650 does not teach a threaded engagement between the cap and container and further does not disclose a cylindrical container. To supply these deficiencies, the Examiner contends that '324 teaches the mechanical equivalence of a snap connection to a threaded connection with a ratchet connection between the cap and neck, and that '870 teaches that is known to vary the shape of a container body, including forming such containers to a cylindrical shape as shown in FIG. 5 of '870.

Conceding for purposes of argument only that '870 discloses or suggests a cylindrical container, this rejection is respectfully traversed for the following reasons. Initially it is noted that '650 also fails to disclose a pair of mating ratchet-toothed rings in the cap and container, as claimed by applicant. Applicant respectfully takes issue with the Examiner's contention that the secondary '324 reference teaches the mechanical equivalence of a snap connection with the combination of a threaded connection and a ratchet connection between the

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cap and neck. Specifically, the '324 patent takes pains to distinguish the snap connection from a screw-on closure, stating of the snap connection, "This manner of securing the closure to a package facilitates close radial control over the radial orientation of the closure and orifice, more so than screw-on closures permit." Column 6, lines 34-37. Note that there is no statement in '324 to the effect that the snap connection may be substituted for the combination of both a threaded connection and ratchet teeth locking means. All '324 teaches regarding ratchet teeth 29/lugs 31 is that they are "suitable means" for adapting closure 10 "to be fixedly secured to the container so that it may not readily be removed therefrom." Column 2, lines 54-60.

Claim 8 stands rejected under 35 USC 103(a) as being unpatentable over '650 in view of '324 and '870 as applied to claim 6 [*sic*] and further in view of U.S. Patent No. 3,441,161. The Examiner acknowledges that '650 does not disclose a tongue, but contends that '161 teaches a "tongue" 21 proximal to hinge 14, and that this element 21 will inherently serve to guide the inner circumferential flange into alignment with the circumferential lip of the container. The Examiner is respectfully submitted to be construing the function of projection 21 too broadly. Specifically, the stated function of projection 21 is merely "to serve as a stop against the edge of the container when the cap is open (FIG. 5)." Column 3, lines 12-14. Referring to FIG. 5 of '161, it is clear that projection 21 merely rests upon the lip of the container so as to prevent its accidental closure when the cap is fully open. More importantly, applicant respectfully points out that claim 8 has been amended so as to specify that the tongue is a "radial" tongue, which is clearly not shown in '161. The radial nature of applicant's tongue 38 is plainly shown in applicant's FIG. 6 and it is this radial configuration of the tongue that guides

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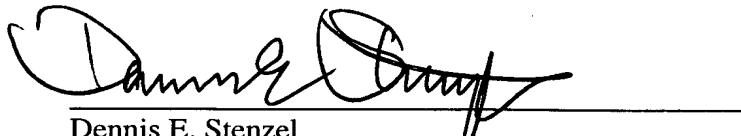
the inner circumferential recess 36 into alignment with the circumferential flange 12 of the container.

Claims 1-6 stand rejected under 35 USC 103(a) as being unpatentable over '324 in view of '870. The Examiner reasons that '324 teaches a container and closure comprising a container lip, screw thread, ratchet tooth ring, closure flip-top 14, hinge 48, tear strip 66 with pull tab 64, threaded cap 20 and ratchet teeth 29. The Examiner argues that the container rim of '324 may be construed to be a "lip," but concedes that '324 does not teach the cylindrical shape of the container. The Examiner again relies upon '870 as supposedly teaching a cylindrical container shape.

In response, applicant points out that claim 1 has now been amended so as to specify that the circumferential lip of the container has a circumferential flange integral with the lip and that the flip-top has an inner circumferential recess capable of non-threadedly engaging the circumferential flange so as to form a fluid-tight seal between the flange and recess. This construction is not shown in '324

For the reasons stated, early and favorable reconsideration is respectfully solicited.

Respectfully submitted,



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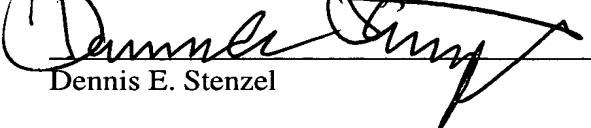
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Feb 10 '05

  
Dennis E. Stenzel